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In re Application of	:	
BURN et al..	:	
Application No. 09/857,346	:	
PCT No.: PCT/AU99/01079	:	DECISION
Int. Filing Date: 02 December 1999	:	
Priority Date: 03 December 1998	:	
For: Control Of Flowering	:	

This is a decision in response to the "Response To Notification Of Defective Response" filed on 06 March 2003.

## BACKGROUND

This international application was filed on 02 December 1999, claimed an earliest priority date of 03 December 1998, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 08 June 2000. A Demand electing the U.S. was filed prior to the elapse of 19 months from the priority date. Accordingly, the 20-month period to pay the basic national fee in the U.S. expired as of midnight on 04 June 2001 (since 03 June 2001 was a Sunday).

On 04 June 2001, applicants filed *inter alia* the basic national fee.

On 22 March 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring an oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

On 22 August 2002, applicants filed *inter alia* a declaration of the inventors.

On 11 February 2003, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, indicating that the declaration filed on 22 March 2002 was unacceptable because "the fifth inventor has not executed the declaration."

## DISCUSSION

Counsel argues that the declaration of 22 August 2002 was acceptable because "the fifth inventor had actually signed on a Declaration sheet by himself." Review of the record reveals that neither of the two declaration filed on 22 August 2002 was signed by the fifth-named inventor, Pascual Perez. Accordingly, counsel is

required to either file a complete declaration signed by Mr. Perez, or else provide adequate evidence that such a declaration has already been filed and received by the USPTO. In the absence thereof, it would not be appropriate to grant the requested relief on the basis of the present record.

### DECISION

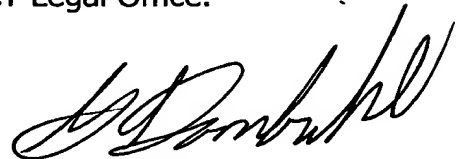
For the reasons explained *supra*, the request to accept the declaration as filed on 22 August 2002 is **REFUSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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